

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MURRAY MEENTS, individually,)	
and on behalf of all others similarly situated,)	
)	
Plaintiffs,)	Case No. 17-cv-864
)	The Hon. Judge Elaine E. Bucklo
v.)	
)	
CITY OF CHICAGO,)	
an Illinois municipal corporation,)	
)	
Defendant.)	

THE DRIVERS’ COMPLAINT IN INTERVENTION

NOW COME the Plaintiffs, Murray Meents, individually, and on behalf of all others similarly situated (collectively, the “Drivers”), by and through their attorneys, LEGALRIDESHARE, LLC, and in complaining in intervention of the Defendant, CITY OF CHICAGO, an Illinois municipal corporation, state as follows:

INTRODUCTION

1. The Drivers are transportation network drivers, more commonly referred to as “rideshare drivers,” “Uber drivers,” and “Lyft drivers,” who engaged in business in the City of Chicago, County of Cook, and State of Illinois.
2. City of Chicago Ordinance No. O2014-1367 (the “Ordinance”) regulates, in part, transportation network drivers and transportation network vehicles.
3. Section 9-115-130 of the Ordinance states: Commercial advertisements shall not be displayed on the exterior or in the interior of a transportation network vehicle.
4. The City of Chicago permits advertisements in the exterior and interior of similarly-situated taxicab vehicles and ordinary passenger vehicles.

5. The City of Chicago's ban of commercial advertisements on and in transportation network vehicles violates the Drivers' right to free speech under the First Amendment to the United States Constitution and Article I, Section 4 of the Illinois Constitution and the right to equal protection under the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution.

6. The Drivers request this Honorable Court to declare the City of Chicago's ban of commercial advertisements on and in transportation network vehicles unconstitutional. The Drivers further ask this Court to issue a permanent injunction on the enforcement of the ban.

JURISDICTION AND VENUE

7. This action arises under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §§ 1983, 1988, and Article I, Section 2 and Article I, Section 4 of the Illinois Constitution. Plaintiff seeks injunctive and declaratory relief against the enforcement of the challenged portions of the City of Chicago Municipal Code, which violate the Drivers' free speech and equal protection rights on their face and as applied.

8. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, and 2201. The state law claims are so closely related to the federal claims so as to create supplemental jurisdiction under 28 U.S.C. § 1367(a).

9. This Court is authorized to grant Plaintiff's prayer for declaratory judgment under 28 U.S.C. §§ 2201 and 2202, Federal Rule of Civil Procedure 57 and 740 ILCS 23/5(b).

10. This Court is authorized to grant Plaintiff's prayer for injunctive relief under 42 U.S.C. § 1983, Federal Rule of Civil Procedure 65 and 740 ILCS 23/5(b).

11. This Court is authorized to grant Plaintiff's prayer to certify the class and to appoint class counsel under Rule 23 of the Federal Rules of Civil Procedure.

12. This Court is authorized to award Plaintiff's attorneys' fees and costs under 42 U.S.C. § 1988 and 740 ILCS 23/5(c).

13. Venue is proper in this district under 28 U.S.C. § 1391(b) because the events giving rise to Plaintiff's claims occurred within the district and because Defendant is located in the district.

PARTIES

14. Plaintiffs, Murray Meents, and the Drivers, are transportation network drivers who operate transportation network vehicles and engage in business activities in the City of Chicago. Meents is a resident of the State of Illinois and conducts business in the State of Illinois.

15. Defendant, City of Chicago, is an Illinois municipal corporation located in Cook County, Illinois.

CLASS ACTION ALLEGATIONS

16. Meents brings this action individually and as a class action on behalf of the following class: All persons lawfully registered to operate transportation network vehicles in the City of Chicago between September 2, 2014 and the present (identified as the "Drivers").

17. Excluded from the class is any entity in which the City of Chicago has a controlling interest, officers or directors of the City of Chicago, all government entities, and any justice or judicial officer presiding over this matter.

18. This action is brought and may be properly maintained as a class action pursuant to Fed. R. Civ. P. 23. This action satisfies the numerosity, typicality, adequacy, predominance, and superiority requirements of those provisions.

19. The class constituting the Drivers is so numerous that the individual joinder of all of its members is impracticable. The exact number and identities of the class are unknown to Plaintiff at this time and can only be ascertained through appropriate discovery.

20. Common questions of law and fact exist as to all members of the class, which predominate over any questions affecting only individual members of the class. These common legal and factual questions, which do not vary from class member to class member, and which may be determined without reference to the individual circumstances of any class member include, but are not limited to, the following:

- A. Whether the Ordinance violates the right to free speech under the First Amendment to the United States Constitution and Article I, Section 4 of the Illinois Constitution, both on its face and as applied to the Drivers;
- B. Whether the Ordinance violates the right to equal protection under the law under the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution, both on its face and as applied to the Drivers;
- C. Whether the Drivers are entitled to a permanent injunction restraining enforcement of Section 9-115-130 of the Chicago Municipal Code against the Drivers.

21. Meent's claims are typical of the claims of the members of the class. Meents and the class have been similarly affected by the Ordinance's ban of advertisements on and in transportation network vehicles.

22. Plaintiff will fairly and adequately represent and protect the interests of the Drivers.

23. Counsel will adequately represent the interests of the Drivers and will expend the resources necessary to represent the interests of the Drivers.

24. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Drivers. Each individual class member may lack the resources

to undergo the burden and expense associated with individually prosecuting complex, expensive, and extensive litigation. Individualized litigation increases the expense and delay for all parties and multiplies the burden on the judicial system in handling the complex legal and factual issues present in this case. Individualized litigation also presents the potential for inconsistent and contradictory judgments. Conversely, a class action presents far fewer practical difficulties and provides several benefits, including single and efficient adjudication. Class treatment of the issues present in this case will ensure that each claimant receives fair and consistent adjudication.

STATEMENT OF FACTS

25. In May 2014, the City of Chicago passed the Ordinance to regulate transportation network providers, transportation network vehicles, and transportation network drivers.

26. The Ordinance went into effect on September 2, 2014.

27. The Ordinance states: “Transportation network provider” or “provider” means a person that offers or provides a transportation network service.

28. The Ordinance states: “Transportation network service” or “service” means a prearranged transportation service offered or provided for compensation using an Internet-enabled application or digital platform to connect potential passengers with transportation network drivers.

29. The Ordinance states: “Transportation network driver” or “driver” means an individual affiliated with a transportation network provider or with a person who is affiliated with a provider to transport passengers for compensation using a transportation network vehicle.

30. The Ordinance explicitly bans commercial advertisements from being displayed on the exterior or in the interior of transportation network vehicles.

31. Any individual who violates the Ordinance's ban on commercial advertisements is subject to a fine of \$500.00 to \$1,000.00 per violation.

32. On the other hand, the City of Chicago permits taxicab licensees to display commercial advertisements on and in their vehicles. Chi. Mun. Code 9-112-410(b).

33. The City of Chicago Municipal Code states: Taxicab licensees may apply for permits to install and/or display an advertising sign or device on the exterior and interior of the vehicle. Chi. Mun. Code 9-112-410(b).

34. The City of Chicago explicitly references the possibility of earning income from advertising maintained on or in taxicab vehicles and establishes rules for the distribution of such income. Chi. Mun. Code 9-112-410(j).

35. Pursuant to Chi. Mun. Code 9-112-410, city permits to display advertisements on and in taxicab vehicles have been and continue to be issued by the City of Chicago.

36. Taxicab advertisements are ubiquitous throughout the City of Chicago.

37. The City of Chicago Municipal Code does not prohibit commercial advertisements on or in ordinary passenger vehicles.

38. A simple Google search demonstrates the vast market and earning potential for persons willing to display advertisements on and in their vehicles.

39. Under the City of Chicago Municipal Code, transportation network drivers are arbitrarily restricted from displaying advertisements on and in their transportation network vehicles.

40. Under the City of Chicago Municipal Code, transportation network drivers are arbitrarily restricted from earning income by displaying advertisements on and in their transportation network vehicles.

HARM TO THE DRIVERS

41. The Drivers wish to display commercial advertisements on the exterior and/or in the interior of their transportation network vehicles.

42. The Drivers wish to earn income by displaying commercial advertisements on the exterior and/or in the interior of their transportation network vehicles.

43. Because of the Ordinance, the Drivers cannot display commercial advertisements on and/or in their transportation network vehicles.

44. Because of the Ordinance, the Drivers cannot earn income by displaying commercial advertisements on and/or in their transportation network vehicles.

45. The Ordinance makes it virtually impossible for the Drivers to engage in commercial speech on and/or in their transportation network vehicles.

46. If the Drivers were to display advertisements on and/or in their transportation network vehicles in Chicago, they would be subject to fines of \$500.00 to \$1,000.00 per violation. Chi. Mun. Code 9-115-230.

CONSTITUTIONAL VIOLATIONS

Count I

City of Chicago's ban on commercial advertisements violates the First Amendment to the United States Constitution and Article I, Section 4 of the Illinois Constitution

47. The allegations contained in all preceding paragraphs are incorporated herein by reference.

48. Section 9-115-130 of the Ordinance violates the First Amendment to the United States Constitution and Article I, Section 4 of the Illinois Constitution on its face and as applied to the Drivers.

49. The prohibition on commercial advertisements on or in transportation network vehicles is a content-based restriction on speech.

50. The advertising ban is a content-based restriction on speech because it prohibits commercial advertising, but not non-commercial advertising, in transportation network vehicles. This prohibition restricts certain speech based on the topic discussed or the idea or message expressed. See *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2227 (2015).

51. In addition, and in the alternative, the advertising ban is a content-based restriction on speech because the City of Chicago Municipal Code discriminates in favor of certain speakers and against others by prohibiting commercial advertising in transportation network vehicles, while explicitly authorizing such speech in taxicabs and not prohibiting such speech in ordinary passenger vehicles. *Cf. Citizens United v. FEC*, 558 U.S. 310, 340 (2010) (“Speech restrictions based on the identity of the speaker are all too often simply a means to control content.”).

52. As a content-based restriction on speech, the advertising ban is subject to strict scrutiny, which requires the City of Chicago to show that the ban is narrowly tailored to serve a compelling government interest. *Reed*, 135 S. Ct. at 2231.

53. The Ordinance’s advertising ban cannot survive strict scrutiny because the City of Chicago does not have a compelling, important, or even rational justification for prohibiting commercial advertisements on the exterior or in the interior of transportation network vehicles, while permitting such advertisements on and in taxicabs and ordinary passenger vehicles.

54. In addition and in the alternative, the Ordinance’s advertising ban cannot survive the First Amendment scrutiny that courts generally apply to restrictions on commercial speech, as the Drivers do not seek to provide unlawful, false, or misleading advertising. As such, the City

of Chicago has no substantial interest in prohibiting commercial advertisements on the exterior or in the interior of transportation network vehicles, while simultaneously permitting such advertisements on and in taxicabs and ordinary passenger vehicles; and the ban does not advance, nor is it narrowly tailored to serve, any substantial government interest. *See Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 566 (1980).

55. The Ordinance's ban on commercial advertising has caused and continues to cause the Drivers irreparable injury for which they have no adequate remedy at law.

Count II

City of Chicago's ban on commercial advertisements violates the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution

56. The allegations contained in all preceding paragraphs are incorporated herein by reference.

57. Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and Article I, Section 2 of the Illinois Constitution, the Drivers have a right to equal protection under the law.

58. A classification that burdens a fundamental right, such as the rights to free speech and association, must be narrowly tailored to serve a compelling state interest. *Plyler v. Doe*, 457 U.S. 202, 217-18 (1982).

59. The City of Chicago Municipal Code treats the Drivers differently from similarly-situated people seeking to advertise in vehicles, specifically taxicabs, by prohibiting commercial advertising on and in transportation network vehicles, while simultaneously permitting advertising in and on taxicabs. See Chi. Mun. Code 9-115-130; 9-112- 410(b).

60. The City of Chicago does not possess a compelling, important, or even rational justification for prohibiting commercial advertisements on and in transportation network vehicles while simultaneously allowing such advertisements on and in taxicabs.

61. There are no differences between the services provided by transportation network vehicles and the services provided by taxicabs, or between the other regulations to which transportation network vehicles are subject and the regulations to which taxicabs are subject, that justify banning commercial advertisements in transportation network vehicles while simultaneously allowing them in taxicabs.

62. In addition and in the alternative, the City of Chicago Municipal Code treats the Drivers differently from similarly-situated people seeking to advertise in vehicles, specifically ordinary passenger vehicles, by prohibiting commercial advertising on and in transportation network vehicles but not on and in ordinary passenger vehicles.

63. The City of Chicago does not possess a compelling, important, or even rational justification for prohibiting commercial advertisements on and in transportation network vehicles while simultaneously allowing such advertisements on and in ordinary passenger vehicles.

64. The ban on commercial advertisements on and in transportation network vehicles is not narrowly tailored or closely drawn to serve any legitimate government interest.

65. The Ordinance's ban on commercial advertising violates the Drivers' right to equal protection under the law guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution.

66. The Ordinance's ban on commercial advertising on and in transportation network vehicles has caused and continues to cause the Drivers irreparable injury for which they have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, for all the reasons stated above, Plaintiff, Murray Meents, individually, and on behalf of all others similarly situated (the “Drivers”), pray for the following relief:

- A. For an Order certifying the class under Rule 23 of the Federal Rules of Civil Procedure and naming Murray Meents as the representative of the class and Meents’ attorneys as class counsel to represent members of the class;
- B. A declaratory judgment stating that Section 9-115-130 of the Chicago Municipal Code prohibiting commercial advertisements on the exterior or in the interior of a transportation network vehicle violates the right to free speech under the First Amendment to the United States Constitution and Article I, Section 4 of the Illinois Constitution, both on its face and as applied to the Drivers;
- C. A declaratory judgment stating that the Chicago Municipal Code’s discrimination against transportation network vehicles in prohibiting commercial advertisements on the exterior or in the interior of a transportation network vehicle, Section 9-115-130, while authorizing taxicabs to advertise on the exterior or in the interior of a taxicab, Section 9-112-410(b), and not prohibiting other passenger vehicles from doing so, violates the right to equal protection under the law under the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Illinois Constitution, both on its face and as applied to the Drivers;
- D. A permanent injunction restraining enforcement of Section 9-115-130 of the Chicago Municipal Code against the Drivers;
- E. An award of nominal damages in the amount of one dollar (\$1.00) for the violation of the Drivers’ constitutional rights;
- F. Plaintiff’s reasonable costs and expenses of this action, including attorneys’ fees, pursuant to 42 U.S.C. § 1988(b), 740 ILCS 23/5(c), or any other applicable law;
- G. All other further relief to which the Drivers may be entitled.

JURY DEMAND

Plaintiff, Murray Meents, individually and on behalf of all others similarly situated, demands a trial by jury on all issues so triable.

DATED: April 27, 2017

Respectfully submitted,
THE DRIVERS

By: /s/ Bryant M. Greening

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CERTIFICATE OF SERVICE

I, Bryant M. Greening, an attorney, certify that on April 27, 2017, I served The Drivers' Complaint in Intervention on all counsel of record by filing it through the Court's electronic case filing system.

Respectfully submitted,

By: /s/ Bryant M. Greening

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